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Attorneys for Plaintiff  
9 UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT

11 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 JONATHAN MOORE,

16 Defendant.  
17  
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No. CR 18-817-PSG

GOVERNMENT'S SENTENCING POSITION  
REGARDING DEFENDANT JONATHAN MOORE

Sentencing: June 17, 2019 at  
10:00 a.m.  
Location: Courtroom of the  
Hon. Philip S.  
Gutierrez

19 Plaintiff United States of America, by and through its counsel  
20 of record, the United States Attorney for the Central District of  
21 California and Special Assistant United States Attorney David H.  
22 Chao, hereby files its sentencing position with respect to defendant  
23 Jonathan Moore.

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1        This sentencing position is based upon the attached memorandum  
2 of points and authorities, the Presentence Investigation Report, the  
3 files and records in this case, and such further evidence and  
4 argument as the Court may permit.

5        Dated: June 3, 2019

Respectfully submitted,

6                                NICOLA T. HANNA  
7                                United States Attorney

8                                BRANDON D. FOX  
9                                Assistant United States Attorney  
                                 Chief, Criminal Division

10                                /s/  
11                                \_\_\_\_\_  
12                                DAVID H. CHAO  
                                 Special Assistant United States  
                                 Attorney

13                                Attorneys for Plaintiff  
14                                UNITED STATES OF AMERICA  
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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. INTRODUCTION**

Defendant Jonathan Moore ("defendant") is a felon previously convicted for attempted murder, attempted robbery, and domestic violence. But these convictions, including a seven-year prison sentence, have not deterred defendant from his propensity for violence. On October 30, 2018, while he was still on parole for attempted murder, defendant threatened to kill an employee of the Social Security Administration working at the Compton field office. Defendant has pleaded guilty without a plea agreement to the single-count indictment, charging him with threatening a federal official and employee, in violation of 18 U.S.C. § 115(a)(1)(B). (Dkt. 20.)

In the Presentence Report ("PSR"), the United States Probation Office determined that defendant's total offense level under the United States Sentencing Guidelines (the "Guidelines" or "USSG") is 12, his criminal history category is IV, and his Guidelines imprisonment range is 21 to 27 months. (Dkt. 22.) The USPO recommends the Court sentence defendant to 21 months' imprisonment, followed by a two-year term of supervised release, and order defendant to pay a \$100 special assessment. (Dkt. 21.)

The government concurs with the Guidelines calculations and recommended special assessment, but disagrees with the recommended sentence at the low-end of the Guidelines range. Instead, a high-end sentence is necessary to protect the public, to instill respect for the law, and to deter defendant from committing future crimes. Based on the factors under 18 U.S.C. § 3553(a), the government recommends a

1 sentence of 27 months in custody, followed by a three-year term of  
2 supervised release.

### 3 **II. OFFENSE CONDUCT**

4 On October 30, 2018, defendant visited the Social Security  
5 Administration's ("SSA") Compton field office and requested that a  
6 replacement Social Security card be sent to the California Department  
7 of Social Services. When the SSA employee declined defendant's  
8 request in accordance with SSA policy, defendant began calling the  
9 employee expletives and demanded to speak to a supervisor. When the  
10 employee told defendant he would need to wait to see a supervisor and  
11 began to close his window shade, defendant told the employee, "You  
12 eventually have to leave here, I am going to smoke your ass."  
13 Fearing for his safety, the employee called security.

### 14 **III. GUIDELINES CALCULATION**

15 In the PSR, the USPO calculated a total offense level of 12  
16 based on the following:

17	Base Offense Level	12	U.S.S.G. § 2A6.1
18	Specific Offense		
19	Characteristics		
20	Single instance, little	-4	U.S.S.G. § 2A6.1(b)(6)
	deliberation		
21	Official Victim	+6	U.S.S.G. § 3A1.2
22	Acceptance of Responsibility	-2	U.S.S.G. § 3E1.1(a)

23 (PSR ¶¶ 18-28.) The United States concurs in the USPO's calculation  
24 of the offense level.

25 The USPO calculated a criminal history score of 9 and a criminal  
26 history category of IV. (PSR ¶¶ 33-39.) Based upon a total offense  
27 level of 12 and a criminal history category of IV, the USPO  
28

1 calculated a Guidelines imprisonment range of 21 to 27 months. (PSR  
2 ¶ 77.)

3 The government concurs with the USPO's Guidelines calculations  
4 and its recommendations with respect to the special assessment and  
5 fine. However, as discussed below, the government recommends a high-  
6 end sentence of 27 months and a three-year term of supervision.

#### 7 **IV. THE GOVERNMENT'S SENTENCING RECOMMENDATION**

8 Based on the calculations above and the factors set forth in 18  
9 U.S.C. § 3553(a), the government recommends that defendant be  
10 sentenced to 27 months' imprisonment, a three-year period of  
11 supervised release, and be ordered to pay a \$100 special assessment.

12 The nature and circumstances of the offense are substantially  
13 aggravating, as captured by the Guidelines total offense level. See  
14 18 U.S.C. §§ 3553(a)(1) and (2)(A). Defendant made a specific and  
15 direct threat to murder a federal employee simply because defendant  
16 did not like that his request for a replacement card was denied.  
17 Defendant clearly knew his conduct was wrong because he fled the  
18 scene when the security guards came to escort him out of the SSA  
19 office. (PSR ¶ 9.) And while it is not an element of the offense,  
20 defendant knew he was capable of carrying out his threat, given that  
21 he was previously convicted of attempted murder in 2010. A sentence  
22 at the high end of the Guidelines is warranted to reflect the  
23 extremely dangerous nature of defendant's actions.

24 Defendant's lengthy history of violent crime is another  
25 important aggravating factor. Although defendant is only 28 years  
26 old, his propensity for violence has manifested itself repeatedly, as  
27 evidenced by his string of convictions for attempted robbery (2008,  
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1 juvenile), stalking (2010), attempted murder (2010), and inflicting  
2 corporal injury (2018). (PSR ¶¶ 32-36.) Consistent with his  
3 criminal history, defendant's actions in this case demonstrate that  
4 his first reaction to adversity of any kind - even something as  
5 mundane as a declined administrative task - is to threaten violence.

6 Moreover, the PSR contains no mitigating factors of note. While  
7 the USPO references defendant's difficulties in high school, the  
8 Guidelines ordinarily do not recognize a difficult upbringing as a  
9 permissible basis to depart downward. See U.S.S.G. § 5H1.12.

10 Moreover, defendant has failed to establish any verified facts  
11 concerning how those difficulties excuse his conduct in this case.  
12 Nor does defendant explain how those issues distinguish him from  
13 other similarly situated defendants, or from other individuals with  
14 learning deficits who do not commit crimes. On this record, the  
15 USPO's low-end recommendation is not well-taken.

16 Finally, defendant's prior convictions and sentences were  
17 insufficient to deter him, and to shield the public, from his  
18 propensity toward violence. Defendant committed the instant offense  
19 approximately three months after his domestic violence conviction and  
20 less than two-and-a-half years after being released on parole for his  
21 attempted murder convictions, for which he served approximately five  
22 years in state prison. (PSR ¶¶ 33-36.) Given defendant's abiding  
23 resistance to the law, a significant custodial sentence is necessary  
24 to protect the public, to instill respect for the law, and to deter  
25 defendant from committing crimes in the future.

26 In sum, taking into account the aggravated nature of the  
27 offense, defendant's history of violent behavior, and the paramount  
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1 need to protect the public, a custodial sentence at the high end of  
2 the Guidelines range and the maximum period of supervision is  
3 necessary and appropriate.

4 **V. CONCLUSION**

5 For the foregoing reasons, the government recommends the Court  
6 sentence defendant to 27 months' imprisonment, followed by a three-  
7 year term of supervised release, and order defendant to pay a  
8 mandatory special assessment of \$100.